

EDMONDS CITY COUNCIL APPROVED MINUTES

November 16, 2010

At 6:00 p.m., Mayor Cooper announced that the City Council would meet in executive session regarding pending threatened and potential litigation, and real estate negotiations. He stated that the executive session was scheduled to last approximately 45 minutes and would be held in the Jury Meeting Room, located in the Public Safety Complex. No action was anticipated to occur as a result of meeting in executive session. Elected officials present at the executive session were: Mayor Cooper, and Councilmembers Bernheim, Plunkett, Fraley-Monillas, Buckshnis, Peterson, Petso and Wilson. Councilmember Wilson left the executive session at 6:35 p.m. Others present were City Attorney Scott Snyder, Community Services/Economic Development Director Stephen Clifton, and City Clerk Sandy Chase. At 6:45, Ms. Chase announced to the public present in the Council Chambers that an additional 10 minutes would be required in executive session. The executive session concluded at 6:54 p.m.

At 6:55 p.m., the City Council met with Architectural Design Board (ADB) candidate Tom Walker. The meeting took place in the Council Chambers, located in the Public Safety Complex. All City Council members were present for the meeting with Mr. Walker. Mr. Walker was advised by Council President Bernheim that action regarding his appointment to the ADB would occur at the next City Council meeting.

The Edmonds City Council meeting was called to order at 7:08 p.m. by Mayor Cooper in the Council Chambers, 250 5th Avenue North, Edmonds. The meeting was opened with the flag salute.

ELECTED OFFICIALS PRESENT

Mike Cooper, Mayor
Steve Bernheim, Council President
D. J. Wilson, Councilmember
Michael Plunkett, Councilmember
Lora Petso, Councilmember
Adrienne Fraley-Monillas, Councilmember
Strom Peterson, Councilmember
Diane Buckshnis, Councilmember

ALSO PRESENT

Peter Gibson, Student Representative

STAFF PRESENT

Gerry Gannon, Assistant Police Chief
Stephen Clifton, Community Services/Economic Development Director
Phil Williams, Public Works Director
Lorenzo Hines, Finance Director
Rob Chave, Planning Manager
Carl Nelson, CIO
Leonard Yarberry, Building Official
Debi Humann, Human Resources Director
Rob English, City Engineer
Kernen Lien, Associated Planner
Michael Clugston Planner
Scott Snyder, City Attorney
Sandy Chase, City Clerk
Jana Spellman, Senior Executive Council Asst.
Jeannie Dines, Recorder

1. APPROVAL OF AGENDA

Council President Bernheim requested the addition of a Resolution Authorizing Defense and Indemnity Pursuant to Chapter 2.06 as Item 11a.

COUNCILMEMBER WILSON MOVED, SECONDED BY COUNCILMEMBER PLUNKETT, TO APPROVE THE AGENDA IN CONTENT AND ORDER AS AMENDED. MOTION CARRIED UNANIMOUSLY.

2. CONSENT AGENDA ITEMS

Councilmember Wilson requested Items G and K be removed from the Consent Agenda and Council President Bernheim requested Item E be removed.

COUNCILMEMBER WILSON MOVED, SECONDED BY COUNCILMEMBER PETERSON, TO APPROVE THE REMAINDER OF THE CONSENT AGENDA. MOTION CARRIED UNANIMOUSLY. The agenda items approved are as follows:

- A. ROLL CALL**
- B. APPROVAL OF CITY COUNCIL MEETING MINUTES OF NOVEMBER 1, 2010.**
- C. APPROVAL OF CLAIM CHECKS #122136 THROUGH #122275 DATED NOVEMBER 4, 2010 FOR \$333,645.30, AND CLAIM CHECKS #122276 THROUGH #122357 DATED NOVEMBER 10, 2010 FOR \$143,710.56. APPROVAL OF PAYROLL DIRECT DEPOSIT AND CHECKS #49917 THROUGH #49950 FOR THE PERIOD OCTOBER 16, 2010 THROUGH OCTOBER 31, 2010 FOR \$643,574.73.**
- D. ACCEPTANCE OF WASHINGTON STATE LIQUOR CONTROL BOARD OCTOBER 2010 LIST OF BUSINESSES RENEWING LIQUOR LICENSES.**
- F. 2011 CONTRACT FOR EDMONDS CITY COUNCIL SR. EXECUTIVE ASSISTANT.**
- H. AUTHORIZATION TO ADVERTISE FOR CONSTRUCTION BIDS FOR THE ALDERWOOD INTERTIE AND RESERVOIR UPGRADE PROJECT.**
- I. AUTHORIZATION TO ADVERTISE FOR CONSTRUCTION BIDS FOR THE 2010 WATERLINE REPLACEMENT PROJECT.**
- J. AUTHORIZATION FOR MAYOR TO SIGN A SUPPLEMENT AGREEMENT WITH MURRAY, SMITH AND ASSOCIATES, INC. FOR UPDATING THE CITY'S WATER SYSTEM COMPREHENSIVE PLAN.**
- L. ORDINANCE NO. 3817 - AMENDING THE EDMONDS COMMUNITY DEVELOPMENT CODE BY REPEALING AND REENACTING THE PROVISIONS OF TITLE 20, TO WIT, CHAPTER 20.01, TYPES OF DEVELOPMENT PROJECT PERMITS; CHAPTER 20.02 TYPE I - IV, DEVELOPMENT PROJECT PERMIT APPLICATIONS; CHAPTER 20.03, PUBLIC NOTICE REQUIREMENTS; CHAPTER 20.04, CONSISTENCY WITH DEVELOPMENT REGULATIONS AND SEPA; CHAPTER 20.06, OPEN RECORD PUBLIC HEARINGS; CHAPTER 20.07, CLOSED RECORD APPEALS; AND CHAPTER 20.08, DEVELOPMENT AGREEMENTS; ARE HEREBY AMENDED IN ORDER TO PROVIDE FOR THE REINSERTION OF THE CITY COUNCIL AS AN APPEAL BODY AND MAKING TECHNICAL CORRECTIONS, AND FIXING A TIME WHEN THE SAME SHALL BECOME EFFECTIVE.**
- M. ORDINANCE NO. 3818 - AMENDING THE PROVISIONS OF THE EDMONDS COMMUNITY DEVELOPMENT CODE BY REPEALING AND REENACTING CHAPTER 20.15A RELATING TO ENVIRONMENTAL REVIEW (SEPA), AMENDING CHAPTER 20.03 PUBLIC NOTICE REQUIREMENTS, TO ADD A NEW SECTION RELATING TO SEPA NOTICING REQUIREMENTS, AND FIXING A TIME WHEN THE SAME SHALL BECOME EFFECTIVE.**

ITEM E: INTERLOCAL AGREEMENT FOR SNOCOM INTERNET ACCESS.

Council President Bernheim requested the final version reflect correction of a typographical error.

COUNCIL PRESIDENT BERNHEIM MOVED, SECONDED BY COUNCILMEMBER PETERSON, TO APPROVE ITEM E. MOTION CARRIED UNANIMOUSLY.

ITEM G: APPROVE CONTRACT FOR PROFESSIONAL SERVICES - CITY OF EDMONDS PROSECUTOR.

Councilmember Wilson relayed his disappointment that the Prosecutor chose not to bring charges against anyone with regard to the tree removed on City property at 3rd & Walnut. Until the Prosecutor explains to him why that was done, he would not support the professional services contract.

Councilmember Fraley-Monillas agreed with Councilmember Wilson that something more should have been done with regard to removal of the tree at 3rd & Walnut. She did not support approval of the professional services contract.

COUNCIL PRESIDENT BERNHEIM MOVED, SECONDED BY COUNCILMEMBER PETERSON, TO APPROVE ITEM G.

Council President Bernheim commented on the need to keep the Prosecutor's contract in place. He was satisfied with pursuing a civil remedy with regard to the tree removed at 3rd & Walnut.

Student Representative Gibson inquired about the contract start date of November 10, 2010. Mayor Cooper explained the Prosecutor has an ongoing contract with the City.

MOTION CARRIED (5-2), COUNCILMEMBERS WILSON AND FRALEY-MONILLAS VOTING NO.

ITEM K: INTERLOCAL AGREEMENT WITH THE SNOHOMISH CONSERVATION DISTRICT

Councilmember Wilson explained he pulled this item in order to vote no.

COUNCILMEMBER PETERSON MOVED, SECONDED BY COUNCIL PRESIDENT BERNHEIM, TO APPROVE ITEM K.

Councilmember Peterson explained the Snohomish Conservation District has a great knowledge base related to water quality and water conservation. This item was reviewed by the Community Services/ Development Services Committee last week. The Interlocal Agreement is a \$5,000 contract that is not spent unless the City requires their expertise. The Agreement will allow the City to access their expertise, knowledge and background in stormwater remediation issues that the City does not have in-house.

Councilmember Fraley-Monillas asked Councilmember Wilson why he planned to vote no. Councilmember Wilson responded the contract was up to \$7500 and would not be spent unless their expertise was needed, funded by the Stormwater Utility. This would be the fifth such contact the Council has signed in the past 2-3 years with an environmental entity; the city has a contract with Cascade Land Conservancy, Sustainable Edmonds, University of Washington (planning for Five Corners), and Climate Solutions. He was not opposed to the work that could be done but he had prioritized expenditures with the other four organizations.

Councilmember Buckshnis expressed support for the Interlocal Agreement. She recalled the Snohomish Conservation District spoke to the Port of Edmonds and she was impressed with their knowledge.

Mayor Cooper explained the Snohomish Conservation District is a government agency through Snohomish County that is established by the State; they are not a non-profit environmental group.

MOTION CARRIED (6-1), COUNCILMEMBER WILSON VOTING NO.

3. PUBLIC HEARING ON THE PLANNING BOARD RECOMMENDATION REGARDING AN AMENDMENT TO THE EDMONDS COMMUNITY DEVELOPMENT CODE REQUIRING THAT INTERIOR LOT LINES NOT OVERLAP PRD PERIMETER BUFFERS.

Planning Manager Rob Chave explained the proposed changes would revise the Planned Residential Development (PRD) Code to clarify that lot lines within a PRD cannot overlap the perimeter buffer.

Mayor Cooper opened the public participation portion of the public hearing.

Roger Hertrich, Edmonds, commented the proposed ordinance appeared to provide safeguards that Councilmember Petso was interested in. He asked Councilmember Petso and Council President Bernheim whether any further corrections to the language in the ordinance were needed. He relayed the Planning Board's comments that PRDs soon would be removed from the ordinance.

Hearing no further comment, Mayor Cooper closed the public participation portion of the public hearing.

In response to Mr. Hertrich's question whether the language was sufficient to clarify that the PFD buffer should be separate from the backyard and side yard setbacks of lots on the exterior of a PRD, Councilmember Petso requested staff return with an ordinance next week that clarifies the intent that the perimeter buffers be separate and distinct from the rear lots and setback areas of lots in a PRD.

City Attorney Scott Snyder observed Councilmember Petso's concern was with the first sentence of subsection 20.35.050(C)(2) : "Provide a landscape buffer, open space or passive use recreational area of a depth from the inner boundaries of exterior property line setbacks at least equal to the depth of the rear yard setback applicable to the zone." He suggested dividing the sentence into three simple, declarative sentences.

Council President Bernheim commented this was an interim ordinance that had been extended. He was hopeful the ordinance could be adopted soon implementing the will of the Council. Mr. Snyder commented during the time the interim ordinance had been in place, this was the first time that sentence had been questioned. Council President Bernheim commented the intent of the interim ordinance was to remove ambiguity.

COUNCILMEMBER PETSO MOVED, SECONDED BY COUNCILMEMBER FRALEY-MONILLAS, TO BRING BACK AN ORDINANCE NEXT WEEK FOR COUNCIL APPROVAL. MOTION CARRIED UNANIMOUSLY.

4. PUBLIC HEARING ON RESIDENTIAL FIRE SPRINKLERS.

Councilmember Wilson explained the Public Safety Committee has discussed this matter at five meetings in an effort to give every opportunity for interested parties to provide input. Discussion has become quite theatrical at those meetings, a demonstration he hoped to avoid at the Council level. The recommendation from the Public Safety Committee is for the Council to consider a requirement for fire sprinkler systems in single family residences 5,000 square feet or greater, or single family residences 3,000 square feet or greater. The Committee expressly stated fire sprinklers should not be required for all houses/units, establishing a threshold of zero square feet.

Councilmember Fraley-Monillas explained the Committee discussed adding a requirement for fire sprinklers at the time of remodeling and determined that would not be appropriate at this time.

Councilmember Wilson explained the Committee invited representatives from the firefighters union, fire leadership, carpenters, Snohomish County Council, water districts, realtors, Master Builders, etc. One of the former leaders of the Master Buildings, also an Edmonds resident, said in his view the 5,000 square foot threshold would be reasonable because so few houses of that size were built. He highlighted changes made to the proposed ordinance, 1) offset the cost of increased capacity, and 2) include in the Whereas clause that it was the Council's intent not to bring this back until 2013 or the next International Fire Code update. He acknowledged this Council or a future Council could overturn that direction.

Fire District 1 Fire Marshal John Westfall reviewed the evolution of fire sprinklers:

- Over 100 years of industrial and commercial building and occupant protection
- Residential designs since 1973 optimize and economize sprinklers to better protect occupants and reduce costs
- Apartment sprinklers in 1988
- Dwelling sprinklers in 2009

He explained the 2009 International Residential Code mandates residential fire sprinkler systems (RFSS). Washington State directed each city and county to make a local decision. Since April RFSS stakeholders including Fire District, Building Departments, local builders, water purveyors, sprinkler installers and testers, realtors, insurance agents, Public Safety Committee, and the public have been meeting to reach agreement in the interest of public safety.

Benefits of home sprinklers include:

- Save lives
- Reduce injuries
- Save millions in property loss
- Sustain resources for extinguishment and re-construction
- Reduce homeowner insurance rates
- Preserve affordable housing
- Take advantage of required systems

Nationally, single family dwellings present a higher risk both to occupants and responders. He provided statistics regarding fire death and injuries in one and two-family dwellings (percentage of residential):

- Fire deaths: 84%
- Fire Injuries 75%
- Fire property damage 85%
- Firefighter deaths: 85%

Statistics show the most susceptible to casualty are children under the age of 10 and seniors over the age of 70. Washington State Fire Marshal reports 23 fatalities in single-family homes for 2009. The City of Edmonds has had 1 fatality in a single-family home since 2000. A smoke alarm alone is not enough. Sprinklers can keep a dwelling tenable, providing time to escape and keep the fire in check until the fire responders arrive. Installing both smoke alarms and a fire sprinkler system reduces the risk of death in a home to fire by 82%, relative to having neither.

Home fire sprinklers reduce property loss:

- Can contain and may even extinguish a fire in less time than it would take the fire department to arrive on the scene.
- Records show \$3.8M loss in dwellings in the Edmonds-Esperance-Woodway area from 2005-first quarter 2010

Home fire sprinklers reduce water damage:

- Only the sprinkler closest to the fire will activate, spraying water directly on the fire
- 90% of fires are contained by the operation of just 1 sprinkler
- 14 gallons per minute vs. 250 gallons per minute. In 10 minutes: 140 gallons vs. 2500 gallons

Fire Marshal Westfall relayed home fire sprinkler costs:

- Nationally accepted cost average is \$1.61 per square foot in new construction in a report developed by the National Fire Protection Association. The National Master Builders Association agrees with this average.
- A local installer, Robinson Plumbing, estimates most installations in \$1.25-\$1.50 per square foot
- Variation of water connection charges can elevate system costs but these costs may be already required for domestic use when a home is constructed

He explaining more water is required for RFSS so the meter is upsized from ¾ inch to 1 inch. Water departments often increase the water connection charge (WCC)/general facilities charge (GFC) to accommodate the larger meter even though the larger meter is only used if the RFSS is activated. Public Works Director Phil Williams suggested the City not charge the upsized WCC when the upsize is due to the requirement for RFSS (an additional \$2000). He reviewed sprinkler costs for 5,000 square feet:

	Edmonds	Olympic View	
RFSS (\$1.25)	\$ 6250	\$ 6250	Related to sprinklers
Permits (10%)	625	625	Related to sprinklers
WCC / GFC	908	3580	Already required
Line/meter (1")	800	1160	Already required
Total	\$ 8593	\$ 11615	

He reviewed sprinkler costs for 3,000 square feet:

	Edmonds	Olympic View	
RFSS (\$1.50)	\$ 4500	\$ 4500	Related to sprinklers
Permits (10%)	450	450	Related to sprinklers
WCC	908	3580	Already required
Line/meter (1")	800	1160	Already required
Total	\$ 6658	\$ 9690	

Fire Marshal Westfall explained RFSS are aligned with Green Construction objectives to reduce energy usage and greenhouse gases:

- Extend usable life and investment of homes
- Preserve belongings
- Reduce hazardous waste and toxic emissions from fire
- Reduce construction debris & waste after fire
- Reduce carbon emissions from fire department and construction equipment during reconstruction

He relayed examples of homeowner insurance savings, pointing out standard installation does not include sprinklers in the garage or crawlspace:

- State Farm Kelly Meldrum @ 5 Corners anticipated a 5% savings for installation standard. 10% for design protection beyond standard.
- McDonald McGarry Insurance on Main anticipated a 4-5% savings for installation standard. 7-10% for design protection beyond standard

Ordinances will accommodate affordable housing. The 3,000 or 5,000 thresholds allow for construction of unsprinklered homes that would be more affordable. The ordinance is written in a middle ground. The gap from 0-2999 square feet is provided, not because lives in smaller homes have a lesser value but as a

compromise among stakeholders to improve fire protection in the community. RFSS take advantage of required systems; dwellings require water for sanitation. Having the dwelling plumbed to the ceiling makes it available to protect the environment, property, family and lives.

He summarized:

- RFSS required for new construction only
- Fire Area: 3,000 square feet vs. 5,000 square feet
- Water connection charge reduction
- Staff will not return with new threshold proposal until the 2012 code cycle (July 2013)

Council President Bernheim asked the basis for establishing a threshold versus simply requiring or not requiring RFSS in all new construction. Fire Marshal Westfall responded the threshold was a compromise among stakeholders; fire personnel go to the extreme for public safety, builders go to the extreme for development. Council President Bernheim asked if there was a relationship between the size of a building and the safety afforded by a sprinkler system. Fire Marshal Westfall agreed the larger a building is, the more challenging it is for fire responders to extinguish a fire – a larger building has more area, more contents and more places for people to be found.

Councilmember Fraley-Monillas asked the number of 5,000 square foot homes built in Edmonds in the last 3-4 years, noting one 5,000 square foot home was being constructed now that includes sprinklers. Building Official Leonard Yarberry advised from 2007 – September 2010, five 5,000 square foot homes were constructed and thirty-two 3,000 square foot homes.

Councilmember Fraley-Monillas inquired about other cities' requirements with regard to RFSS. Fire Marshal Westfall answered Kenmore recently adopted a zero threshold fire sprinkler requirement; they previously had a 5,000 square foot threshold. In Zone 1 Departments, Shoreline has a 5,000 square foot threshold, Kirkland has a 6,000 square foot threshold, and Redmond has a zero threshold. In Snohomish County, Mountlake Terrace approved a 4,000 square foot threshold for new construction and Brier approved a 5,000 square foot threshold for new construction and remodels.

Councilmember Petso observed facility fees are required to be equitable and cost based. She asked whether reducing the WCC was legal. City Attorney Scott Snyder responded fees were intended to be a cost for service and based on the cost for providing the service. The Council can waive fees but cannot levy a fee that exceeds the cost to process an application. Councilmember Petso asked whether waiving the fee was an illegal gift of public funds. Mr. Snyder used the example of the reduction/waiver of the application fee for murals due to the general public benefit. Mr. Williams explained Bremerton also offers the lower connection fee. He explained a 1-inch meter provides 3 times as much water as a $\frac{3}{4}$ inch meter thus the GFC is 3 times larger. The fee is viewed as a demand charge; a person with a house large enough to have enough bathrooms, irrigation, etc. to require a 1-inch meter, place more demand on the system than smaller homes. In the case of RFSS, the larger meter is not related to ongoing demand but a life-safety issue that rarely would be used.

Student Representative Gibson asked what activated a RFSS. Fire Marshal Westfall answered heat; 135-165 degrees at the ceiling. Mr. Gibson asked who tested fire sprinklers. Fire Marshal Westfall responded in a residential system it is suggested the homeowner perform an annual flow test. In a standalone system, the device must be separated and tested. With newer flow-through systems, the water moves through continuously.

Councilmember Peterson inquired about affordable housing. Fire Marshal Westfall responded a 3,000 or 5,000 square foot threshold would allow for affordable housing and address builders' concerns. A 3,000 square foot threshold would allow homes up to 2,999 square feet to be constructed without a sprinkler system. Councilmember Peterson referred to reports that the average size of new homes is shrinking for

the first time due to economics. If the Council approved a reduction in the connection charge, he asked whether a person constructing a 2,000 square foot home with sprinklers and the 1-inch meter could also take advantage of the lower connection charge. Fire Marshal Westfall responded the proposed ordinance amends the water connection charge section as well as the requirement for sprinklers in 3,000+ or 5,000+ square feet. The reduction in the water connection charge for an upsized meter would apply to any home constructed with a fire sprinkler. Mr. Yarberry agreed the reduced water connection charge would apply to any home installing a sprinkler system, explaining the ordinance does not reference square footage in the section regarding upsizing the meter.

Mr. Williams explained the intent was for the waiver to apply only to the WCC/GFC; the customer would still pay the additional cost for the larger meter. He noted a flow-through system would be very expensive to add to an existing residential structure but is very affordable to install during construction.

Councilmember Fraley-Monillas commented her career has been in social services which is related to people. She referred to information in the presentation that two people died in Edmonds as a result of house fires in the past ten years. She asked whether those deaths could have been prevented if the homes were sprinklered. Fire Marshal Westfall answered in the case of the death in January 2010 where a woman succumbed to smoke and gases; sprinklers would have saved her life. She had a smoke alarm but there was no battery. Her son has been a spokesperson for the Fire Department to encourage people to keep their smoke alarms operational. The previous death was a smoking in bed fire; the victim died and the fire went out. In that instance it is unlikely the flames would have activated a sprinkler system.

Mayor Cooper opened the public participation portion of the public hearing.

Ryan McIrvin, Snohomish County-Camano Association of Realtors, thanked the City for their stakeholder outreach process, particularly the time devoted by Councilmember Wilson. Government works best when it works with the community to find solutions. He commended the attempts to reduce the cost by offsetting the general facilities charge. However, the members of the Association object to mandating RFSS. He questioned how many lives would have been saved via hardwired smoke detectors versus smoke detectors and fire sprinklers. He acknowledged fire sprinklers were an effective tool for extinguishing fires and the proposed thresholds were more acceptable than a general mandate because it offset affordability. He compared a requirement for fire sprinklers to requiring everyone wear a Kevlar vest to reduce the number of people who die from gunshot wounds or requiring five point seatbelts to reduce auto deaths. If the Council chose to implement the ordinance, the Association prefers the 5,000 square foot threshold. The Association fears the threshold will be lowered in the future.

Mike Echelbarger, Edmonds, stated he became involved in this discussion when considering a remodel and requiring sprinklers for remodels was originally included in the ordinance. He pointed out requiring the installation of sprinklers during a remodel is horribly expensive. He agreed with requiring fire sprinklers in multi family dwellings but did not support requiring sprinklers in residential homes. He noted the newer generation of smoke detectors are hardwired and battery versus older smoke detectors that are simply battery operated. He referred to statistics provided by Fire Marshal Westfall of \$3.8 million loss in the past five years or \$650,000/year compared to the City's total valuation. The two fire deaths would not have been prevented by this ordinance. He commented on the damage that sprinklers can do to photographs, artwork, books, etc. He questioned the need for sprinklers when smoke detectors were very effective. He questioned the cost estimate for fire sprinkler installation of 0.38/square foot.

Al Rutledge, Edmonds, commented the general facilities charge provides revenue to the City. He questioned whether requiring sprinklers would reduce the need for fire personnel.

Steve Sherman, Fire District 1 Deputy Chief/Fire Marshal, commented considering stakeholders' point of view places the Fire Marshal in a compromised position. He recalled at the first stakeholder

meeting admitting to being an advocate for sprinklers. He supported adopting the model code with a zero threshold. He admired the team effort to consider the concerns of the stakeholders.

Council President Bernheim commented the issue appeared to be cost versus benefit. He recognized the building code required fire sprinklers in new construction apartments and commercial buildings and questioned why fire sprinklers were not required in single family structures. Deputy Chief/Fire Marshal Sherman responded it was not a fire code requirement; it was a residential code requirement. Sprinkler protection was included in apartments and commercial structures via the International Building Code. When the International Residential Code (IRC) was established, it separated multi family and single family/duplexes. The recent adoption of the IRC at the national level requires sprinklers in all residential structures. The fire industry supports having the model code effective on a national level. In the real world, often a compromise is necessary that balances fire and builders wishes. If the fire industry is the only consideration, the Council should adopt a zero threshold.

Gary Franz, Deputy Fire Chief, Graham Fire & Rescue, explained smoke detectors alert a person inside a home to the fact that a fire is in progress; it has no ability to change the outcome of the fire once it ignites. At a point in time, every fire will grow until water is applied with the limited exception of a fire that extinguishes due to lack of oxygen. Sprinkler systems provide the water source at 135 degrees at ceiling temperature; the lower levels are at a lower temperature. Sprinklers limit smoke and fire damage and people have an opportunity to escape. He recalled listening to a caller on a cell phone trapped in a bedroom while the smoke detector was activated who ultimately died. He summarized sprinklers provide an entirely different level of protection. He guaranteed anyone who had been in a fire would advocate for fire sprinklers. He offered to provide the Council the link to the independent study that provided a range of installation costs from \$0.38 to \$3.66/square foot.

Roger Hertrich, Edmonds, recalled when he was on the Council in 1988, the Council passed a requirement for fire sprinklers in buildings with 5+ units. He supported fire sprinklers in higher density residential units due to the increased chance of loss of life in a fire. The question today is whether the goal is saving buildings or people, the Fire Department has indicated they are satisfied with a building burning as long as the people have been rescued. He anticipated the number of deaths due to the absence of smoke detectors was much higher and that lower income housing may have more smokers. Fire sprinklers add value to a building and lower costs over time. He pointed out most fires occur in older building which would not be sprinklered under the proposed ordinances and new buildings contain more fire protections even without sprinklers. He recommended the 5,000 square foot threshold and a reduction of fees/costs for anyone voluntarily installing fire sprinklers.

Hearing no further comment, Mayor Cooper closed the public participation portion of the public hearing.

In response to questions from Councilmember Plunkett, Mr. Echelbarger acknowledged he was a developer whose family has been constructing homes in Snohomish County for 40-50 years. Councilmember Plunkett asked whether the infrastructure installed for a development would allow sprinklers to be installed on an individual basis. Mr. Echelbarger answered yes, explaining the infrastructure installed allows sprinklers to be or not be installed in an individual home.

Councilmember Plunkett referred to the indication that the City Council would not revisit this issue for three years and asked whether the Council could reduce the threshold in the future. Mr. Snyder answered there was no legal restriction on reconsideration; it was a political statement, not a legal restriction. Councilmember Plunkett summarized this City Council or any future Council was under no obligation to adhere to that intent. Mr. Snyder agreed.

Student Representative Gibson asked why the Council would not adopt a zero threshold. Councilmember Wilson commented his personal feeling was he would not want sprinklers in his home and thus had

difficulty requiring it for the community; fire professionals have a different view. If the principle is saving lives, the threshold should be zero and sprinklers should be required in all existing homes.

Councilmember Fraley-Monillas commented as a legislative body, the Council often places requirements on the community such as PRD regulations, homeless shelters, etc. Mr. Echelbarger provided a builder's point of view and costs to the Public Safety Committee. She noted the person who died in a fire in January 2010 may not have died if there were sprinklers in her home. The most vulnerable are the disabled, seniors and children; people who may not be able exit a house quickly. She questioned what a life was worth; her son's life was worth everything to her to protect him. This is a social issue and is more than cost. As a legislative body, it is the City Council's responsibility to ensure the safety of the community. She recalled the opposition when smoke detectors were initially required; now that is the norm and she hoped fire sprinklers eventually would be the norm. The cost of adding fire sprinklers is low compared to saving someone's life.

Councilmember Wilson commented he did not find a compelling enough reason to adopt either ordinance. He agreed with the proposal to reduce the general facilities charge to incentivize the installation of fire sprinklers.

COUNCILMEMBER WILSON MOVED TO ADOPT THE 5,000 SQUARE FOOT ORDINANCE, ORDINANCE NO. 3819, STRIKING THE FOURTH WHEREAS THAT REFERENCES 5,000 SQUARE FEET AND STRIKING SECTIONS 1 AND 2 ON PAGE 2. MOTION DIED FOR LACK OF A SECOND.

COUNCILMEMBER BUCKSHNIS MOVED TO PASS THE ORDINANCE AT THE 5,000 SQUARE FOOT LEVEL. MOTION DIED FOR LACK OF A SECOND.

COUNCIL PRESIDENT BERNHEIM MOVED, SECONDED BY COUNCILMEMBER FRALEY-MONILLAS, TO ADOPT ORDINANCE NO. 3819 WITH A ZERO THRESHOLD, STRIKING THE 5,000 SQUARE FOOT LANGUAGE.

Council President Bernheim was not persuaded regarding the value of a minimum threshold other than a fire could pose more danger in a large structure versus a small structure. He commented these are nationally established fire regulations and should not be left to consumer choice.

Mr. Snyder clarified that by deleting the words "exceeding 5,000 square feet of fire area," in Section C, the language that remains mirrors the model code.

Councilmember Wilson explained the Public Safety Committee spent 7-8 hours considering the proposed ordinance. He acknowledged there are reasonable arguments that fire sprinklers should be required at some level but the Committee expressly did not support a zero threshold. He pointed out the Council has spent 15 minutes deliberating the issue and during the past hour, fire professionals have spent 40 minutes explaining how fire sprinklers save lives. The Council has not provided ample opportunity for objective rebuttal. If the Council wants to mandate a zero threshold, he suggested the Council take more time to educate themselves and not limit the rebuttal to one builder speaking for three minutes.

Councilmember Plunkett did not support the proposed motion although he supported the concept of residential sprinklers and a reduction in the connection charge for voluntary installation of fire sprinklers. He welcomed additional discussion, noting the proposed motion was a drastic change from the 3,000 or 5,000 square foot threshold.

Councilmember Fraley-Monillas commented the Council has had as much education as the Public Safety Committee via receipt of numerous documents. She agreed the Public Safety Committee did not discuss a zero threshold but the Committee also did not discuss a reduction in the connection charge for voluntary

installation of fire sprinklers. The Committee agreed to a 3,000 or 5,000 square foot threshold to make it more palatable to the builders. During Committee discussions, she indicated 3,000 square feet was the lowest threshold she would accept. The members of the Public Safety Committee, Councilmember Wilson and she, agreed to allow the Council to discuss it and make a decision.

Councilmember Peterson relayed his respect for fire professionals and their support for fire sprinklers to save lives and property. He also respected the reality that builders face. He did not find that the added cost outweighed the benefit. He referred to the seatbelt analogy, noting not long ago there were 2-point seatbelts. Now there are 3-point seatbelts and wearing a seatbelt is required. The technology of seatbelts has improved as has the technology for installing fire sprinklers in new homes. He expressed his support for the motion, preferring to swing the balance toward safety.

COUNCILMEMBER BUCKSHNIS MOVED, SECONDED BY COUNCILMEMBER PETERSON, TO AMEND THE MOTION TO REQUIRE FIRE SPRINKLERS IN 3,000 SQUARE FOOT HOMES.

Mayor Cooper asked whether that would include waiver of the connection charge for voluntary installation of fire sprinklers in homes less than 3,000 square feet. Mr. Snyder relayed staff's indication that it would.

UPON ROLL CALL, AMENDMENT FAILED (3-4), COUNCILMEMBERS BUCKSHNIS, PETERSON AND PETSO VOTING YES; COUNCILMEMBERS PLUNKETT, WILSON, AND FRALEY-MONILLAS AND COUNCIL PRESIDENT BERNHEIM VOTING NO.

Councilmember Wilson commented throughout the discussion at the Public Safety Committee, it was made clear that sprinklers are primarily about saving property; the vast majority of lives are saved via smoke detectors. The Committee did not discuss retrofitting, assuming it was cost prohibitive. He anticipated the cost of adding a sprinkler system to his existing home would be \$20,000. He did not view the \$5,000 - \$8,000 cost of installing sprinklers in a new home much differently than \$20,000 for sprinklers in an existing home. For those interested in affordable housing, requiring fire sprinklers will burden low income, low square footage, low price market houses. He acknowledged an additional \$10,000 for fire sprinklers in a 5,000 square foot home would have little noticeable impact. However, the additional cost would significantly impact the purchaser of a 1300 square foot home.

Councilmember Plunkett commented a zero threshold raised many additional dynamics. He noted tonight's presentation was in regard to a 3,000 or 5,000 square foot threshold; there was no presentations or public testimony regarding a zero threshold.

COUNCILMEMBER FRALEY-MONILLAS MOVED, SECONDED BY COUNCILMEMBER BUCKSHNIS, TO AMEND THE MOTION TO 3,000 SQUARE FEET.

Discussion followed regarding whether such a motion was in order as it had previously been defeated. Mr. Snyder recommended the Council vote on the main motion first.

Councilmember Plunkett suggested the Council hold another public hearing because a zero threshold was different than the presentation or testimony provided.

MAYOR COOPER RULED THE AMENDMENT OUT OF ORDER.

COUNCILMEMBER PLUNKETT MOVED TO TABLE THIS ITEM, SUBJECT TO COUNCIL PRESIDENT BERNHEIM SCHEDULING ANOTHER PUBLIC HEARING. UPON ROLL CALL, MOTION FAILED (3-4), COUNCILMEMBERS PETSO, WILSON AND PLUNKETT VOTING YES; AND COUNCIL PRESIDENT BERNHEIM AND COUNCILMEMBERS PETERSON, FRALEY-MONILLAS AND BUCKSHNIS VOTING NO.

COUNCILMEMBER FRALEY-MONILLAS MOVED, SECONDED BY COUNCILMEMBER PETERSON, TO AMEND THE MOTION TO 2,999 SQUARE FEET. UPON ROLL CALL, AMENDMENT FAILED (3-4), COUNCILMEMBERS PETERSON, FRALEY-MONILLAS, AND BUCKSHNIS VOTING YES; AND COUNCILMEMBERS WILSON, PLUNKETT, AND PETSO AND COUNCIL PRESIDENT BERNHEIM VOTING NO.

Councilmember Petso commented she may have been able to support a zero threshold had the public hearing included that option. She agreed with Councilmember Plunkett that that option was not presented to the public tonight. She supported scheduling another public hearing, finding the safety of fire personnel an important consideration in requiring the installation of fire sprinklers.

Mayor Cooper pointed out the agenda title was Public Hearing Regarding Residential Fire Sprinklers; he asked if the notice stated square footage thresholds. Mr. Snyder answered there was no legal problem; the Council could consider an ordinance at a regular meeting and a public hearing was not required unless required by statute which was not applicable in this instance. He summarized there was no legal problem; the issue may be appearance as the zero threshold was not included in the packet as an option.

With regard to 3,000 versus 5,000 square feet, Councilmember Wilson commented the Public Safety Committee worked hard to dull the emotion regarding this topic. If a zero threshold had been one of the options, he was certain more members of the building and real estate community would have attended tonight's meeting. This meeting was advertised in the Master Builder's newsletter and communicated to the Snohomish County-Camano Realtors Association with information that the Public Safety Committee did not recommend a zero threshold. If the Council was interested in a zero threshold he recommended delaying the decision to gather further public input.

If a zero threshold would save firefighters' and the public's lives, Student Representative Gibson did not understand why it was such a large issue to require fire sprinklers in new residential homes.

VOTE ON THE MAIN MOTION:

UPON ROLL CALL, MOTION FAILED (3-4), COUNCILMEMBERS PETERSON AND FRALEY COUNCIL AND PRESIDENT BERNHEIM VOTING YES; AND COUNCILMEMBERS PETSO, PLUNKETT, BUCKSHNIS AND WILSON VOTING NO.

COUNCILMEMBER PETSO MOVED, SECONDED BY COUNCILMEMBER BUCKSHNIS, TO BRING THIS ITEM BACK FOR ANOTHER PUBLIC HEARING.

Councilmember Fraley-Monillas questioned the need for another public hearing if the Council had not approved a zero threshold. Councilmember Petso answered that based on tonight's discussion, a zero threshold is a possibility.

Council President Bernheim commented he had expected a motion tonight to adopt a 3,000 or 5,000 square foot threshold. He made the motion for a zero threshold after being persuaded by the fire professionals' comments versus the builder. He agreed requiring fire sprinklers added costs, but all safety and building regulations add cost. With the failure of the zero threshold, he supported adopting a 3,000 square foot threshold.

COUNCILMEMBER BUCKSHNIS WITHDREW HER SECOND, AND COUNCILMEMBER PLUNKETT SECONDED THE MOTION.

Councilmember Fraley-Monillas encouraged the Council to vote no, finding no reason for a future public hearing if the options were to require fire sprinklers for 3,000 and 5,000 square foot residential structures.

MOTION FAILED (2-5), COUNCILMEMBERS PLUNKETT AND PETSO VOTING YES.

COUNCILMEMBER PETERSON MOVED, SECONDED BY COUNCILMEMBER FRALEY-MONILLAS, TO ADOPT ORDINANCE NO. 3819, REQUIRING AN APPROVED AUTOMATIC FIRE SPRINKLER SYSTEM BE INSTALLED IN NEW ONE-FAMILY AND TWO-FAMILY DWELLINGS AND TOWNHOUSES EXCEEDING 3,000 SQUARE FEET OF FIRE AREA. MOTION CARRIED (5-2), COUNCILMEMBERS PLUNKETT AND WILSON VOTING NO.

Mayor Cooper thanked the Council for their lively and professional debate on this difficult issue. He declared a brief recess.

5. AUDIENCE COMMENTS

Natalie Shippen, Edmonds, requested the Community Services/Economic Development Quarterly Report be placed on the Council Agenda instead of the Consent Agenda and the report placed on the information table in Council Chambers. She requested the following from Mayor Cooper: 1) a list of the minimum build alternatives for Edmonds ferry improvements referred to in the July 29 quarterly report that the ferry system staff continues to explore, 2) options for improving loading and off-loading efficiency that were considered at the meeting regarding the Main Street terminal held with WSF representative David Mosley, two State representatives, and City staff, where would the additional signal be located and how would it improve the existing system, 3) WSF's new plan for Unocal does not include a Sound Transit station at Unocal, 4) when will the Unocal/Chevron site be cleaned up and will it be clean enough to meet mixed use zoning that applies to the property in the Comprehensive Plan, and 5) the quarterly report refers to a June 27 workshop regarding the Mukilteo multimodal terminal and reference was made to a WSF website for further information. She asked whether that website would have described WSF's suggestion for a Clinton-Edmonds route to replace the Clinton-Mukilteo route.

Al Rutledge, Edmonds, thanked Mayor Cooper and Council President Bernheim for attending the Christmas in July event at Top Foods to collect toys for the Edmonds Food Bank Toy Drive. The Edmonds Food Bank served 500 people today; the most it has served in a long time. Food and toys will be collected again at Top Foods on November 19, 20 and 21. He thanked everyone who donated food and toys.

Don Hall, Edmonds, relayed his concern with Council President Bernheim's removal and defacing of signs on Sunset Avenue. Item 6 on the April 20, 2010 agenda states Public Hearing on Proposed Amendments to the Edmonds City Code, Dogs on Public Grounds, not passage of an ordinance. At that meeting the Council unanimously passed a motion adopting the recommended amendments to the Edmonds City Code 5.05.060 allowing dogs on leashes and on designated paths at Hickman Park, Haines Wharf Park and well as the path and grassy strip along the west side of Sunset Avenue. Mr. Snyder advised an ordinance adopting the amendments would be scheduled on a future Consent Agenda; this did not occur until recently. He referred to Council President Bernheim questioning the truth of the statement that the Council recommended amendments to the City code, finding it legally false. He referred to Council President Bernheim's assertion that the Council voted on April 20, 2010 to open Sunset Avenue to dogs on leashes, pointing out an ordinance was required to enact that direction. In a February 22, 2009 email regarding Sunset Avenue, Council President Bernheim stated a possible solution would be to ask the Public Works Department to remove the three signs along Sunset Avenue and others at Brackett's Landing so that people would think it was okay to walk their dogs in the park. Mr. Hall questioned the rush, noting the issue was raised in February 2009, the changes were recommended in April 2010 and Council President Bernheim only needed to wait another 3-4 days before the ordinance was passed on the Consent Agenda.

Roger Hertrich, Edmonds, referred to Item 9 on the agenda, suggesting another public hearing be scheduled as changes had been made to the plans. Acknowledging the job of operating the City and supervising personnel is the Mayor's responsibility, he offered criticism of Mayor Cooper's management

style in regard to staff behavior that is detrimental to the health of City government. He referred to the behavior of Finance Director Lorenzo Hines two weeks ago during a financial report and discussion regarding the 1% increase in the regular property tax levy in which Mr. Hines turned his back to Councilmember Buckshnis and returned to his seat. He requested Mayor Cooper ask Mr. Hines to publicly apologize to Councilmember Buckshnis for his disrespect and arrogance.

11A. RESOLUTION AUTHORIZING DEFENSE AND INDEMNITY PURSUANT TO CHAPTER 2.06.

Council President Bernheim explained the proposed resolution would indemnify Councilmembers from incurring fees for the purposes mentioned in the resolution.

COUNCIL PRESIDENT BERNHEIM MOVED, SECONDED BY COUNCILMEMBER PETSO, TO ADOPT RESOLUTION NO. 1237, AUTHORIZING DEFENSE AND INDEMNITY PURSUANT TO CHAPTER 2.06 ECC SUBJECT TO RESERATION OF RIGHTS, OF TWO CITY COUNCILMEMBERS FROM THE COST OF LEGAL DEFENSE INCURRED IN RESPONSE TO A WORKPLACE INVESTIGATION.

Councilmember Wilson requested a copy of the resolution and an opportunity to read it. City Clerk Sandy Chase also requested a copy of the resolution.

Councilmember Wilson expressed his support for the intent, noting he had not read Chapter 2.06. His understanding was electeds when acting in an official capacity were indemnified and represented by corporate counsel when appropriate and the costs borne by the City. He asked if the resolution was simply a restatement of that regulation. Council President Bernheim answered in order to provide that benefit it must be authorized by the City Council. Councilmember Wilson asked whether the indemnity always exists and a resolution only required when members need to obtain outside counsel. City Attorney Scott Snyder explained there is a process in Chapter 2.06.040, indemnity from a claim, settlement or payment is covered; the costs of defense are covered to the extent of the City's contract with Ogden Murphy Wallace. The City will pay up to \$215/hour to supplement any costs incurred by the Councilmember. As an example, he referred to several employees who made a similar request to the Council several months ago when they were the subject of a claim at the State Licensing Agency. The conflict for him arises because he represents the City in its corporate capacity and cannot advise Councilmembers in this process.

Councilmember Buckshnis asked if she needed to recuse herself from the vote. Mr. Snyder answered the conflict of interest statute does not apply; this is a benefit provided by ordinance and she need not recuse herself.

MOTION CARRIED UNANIMOUSLY.

6. ADOPTION OF PROPOSED ORDINANCE PROVIDING FOR THE ANNUAL TAX LEVY BY INCREASING THE REGULAR PROPERTY TAX LEVY BY THE CURRENT 101% LEVY LIMIT, THEREBY LEVYING AN ESTIMATED REGULAR PROPERTY TAX LEVY OF \$9,535,938, EMS LEVY OF \$3,533,529 AND LEVYING \$877,984 FOR VOTED INDEBTEDNESS FOR THE PUBLIC SAFETY COMPLEX.

COUNCIL PRESIDENT BERNHEIM MOVED, SECONDED BY COUNCILMEMBER PETERSON, TO ADOPT ORDINANCE NO. 3820, PROVIDING FOR THE ANNUAL TAX LEVY BY INCREASING THE REGULAR PROPERTY TAX LEVY BY THE CURRENT 101% LEVY LIMIT, THEREBY LEVYING AN ESTIMATED REGULAR PROPERTY TAX LEVY OF \$9,535,938, EMS LEVY OF \$3,533,529 AND LEVYING \$877,984 FOR VOTED INDEBTEDNESS FOR THE PUBLIC SAFETY COMPLEX. MOTION CARRIED UNANIMOUSLY.

7. 2010 THIRD QUARTER BUDGET UPDATE

Finance Director Lorenzo Hines reported the 2010 Third Quarter Budget Update was discussed at the November 9 Finance Committee meeting and a number of questions were asked. Responses to questions will be provided by the end of the week. He invited additional questions.

Councilmember Buckshnis pointed out the June Quarterly Budget was updated based on the proposed budget amendments which resulted in a misstatement of the June Quarterly Budget; the amendments approved in October were not included in the Third Quarter Budget. The Third Quarter Budget shows an interfund transfer of \$1.3 million from Fund 511 to the General Fund. Mr. Hines offered to research, noting it may be due to Fire District 1 transactions. Councilmember Buckshnis questioned the logic of including the unapproved budget amendments in the Second Quarter Budget Update (June) and not including the amendments in the Third Quarter Budget (September) that were approved on October 5. Mr. Hines answered the amendment was approved in the October accounting period and will be reflected in Period 10.

Councilmember Buckshnis referred to RCW 35A.33.140 regarding quarterly statements and statutory requirements. She asked if there was a legal risk in misstating the City's financial statements and having inaccurate financial statements that had been intentionally created. She noted in the corporate sector, misstatements in financial statements requiring notification of the SEC, restatement of the financial statements, etc. Mr. Snyder answered SEC rules do not apply to the City. He offered to research and provide a written response to the Council. For the purposes of his memo, he would assume the information was inaccurate.

Councilmember Petso commented the EMS transport fees seem to be trickling in at a slow rate, the revenue from that source is only at 45% of budget. She asked whether staff had been able to determine why receipt of those funds was so slow and whether receipt would improve during the remainder of the year to reach the budgeted amount. Mr. Hines responded staff is still researching that issue; an answer will be included in his responses by the end of the week.

Councilmember Petso expressed her appreciation for staff adding funds to the Budget Summary by Fund and requested all funds be included such as the \$1.3 million Public Safety Reserve Fund.

Councilmember Wilson asked if Fire District 1 was less motivated to collect the funds than the Edmonds Fire Department had been. Mayor Cooper responded the Fire District 1 Chief indicated to him that they are transporting more people inside Edmonds than the Edmonds Fire Department had. Some of the delay is due to insurance and Medicaid reimbursements. He noted it was possible the City would receive a windfall of collections in 2011 when all reimbursements are made. Councilmember Wilson observed that same windfall may have occurred in early 2010.

8. AUTHORIZATION TO ADVERTISE FOR CONSTRUCTION BIDS FOR THE INTERURBAN TRAIL IMPROVEMENTS

City Engineer Rob English explained if approved by the Council, staff would advertise for construction bids in early 2011. He provided a map of trails in Snohomish and King Counties including the Burke-Gilman, Centennial and Interurban trails, explaining the Interurban Trail is part of a trail system from Seattle to Everett. He provided a brief history of the trail, explaining the Ballinger Trolley Car operated on the alignment through Edmonds, serving Edmonds to Seattle. He provided a photograph of the old Lake Ballinger Station used by the trolley system. Today, portions of the trail alignment are overgrown, unimproved right-of-way. He reviewed project goals that include providing a continuous trail, safe recreation and commuter opportunities, meeting local and regional needs and creating and preserving access to a linear park and open spaces.

Mr. English described the trail:

- Beginning at Ballinger Park on the south, a 12-foot wide trail will be constructed to 76th Avenue
- Crossing 76th Avenue, the trail will continue to 74th Avenue, a paved residential street
- From 74th to 75th will be improved for trail and vehicle users

- North from that location, a 12-foot wide trail will be constructed to 228th where it connects with the Mountlake Terrace trail that was constructed last year
- 76th Avenue will be restriped to provide bike lanes from SR104 north to 228th and on 228th from 76th to the Mountlake Terrace trail. Bike lanes will require removal of some parking spaces on 76th Avenue. Bike lanes will shift from side to side to provide parking along 76th Avenue.
- Shelter on the trail on the east side of 76th.

Public Works Director Phil Williams explained in recent months, pervious asphalt has been added to several key sections of the trail. The project was originally designed with all impervious asphalt and a detention vault was included to offset 1:1 the additional square footage added to the sensitive Lake Ballinger drainage area. The change to pervious asphalt for a total length of 2,100 feet of the 4,400 feet of trail creates a net environmental positive.

Councilmember Peterson asked about the cost difference for pervious asphalt. Mr. Williams answered although it was originally anticipated the cost would be substantial, recent discussions with paving vendors suggests the total cost to add pervious asphalt would be at or below \$50,000 for the additional aggregate placed below the asphalt to create a reservoir for storage of water.

COUNCILMEMBER PETERSON MOVED, SECONDED BY COUNCILMEMBER BUCKSHNIS, TO AUTHORIZE STAFF TO ADVERTISE FOR CONSTRUCTION BIDS FOR THE INTERURBAN TRAIL IMPROVEMENTS.

Councilmember Peterson commented the members of Community Services/Development Services Committee (Councilmember Petso and he) originally intended to place this item on the Consent Agenda but felt such a positive project should be highlighted.

Councilmember Buckshnis commented at the presentation Mr. Williams, Mr. English and Mr. Hauss made at the SeaShore Transportation Forum, everyone was excited about the Interurban Trail project because Edmonds has been the missing link.

MOTION CARRIED UNANIMOUSLY.

9. CAPITAL FACILITIES PLAN AND CAPITAL IMPROVEMENT PROGRAM (2011-2016).

City Engineer Rob English explained the draft Capital Facilities Plan (2011-2016) and Capital Improvement Program (2011-2016) were presented to the CS/DS Committee on September 14, 2010, a presentation was made to the City Council on September 28, 2010, and a public hearing was held on October 5, 2010. At the October 5 public hearing, 3 issues were raised:

1. The \$50,000 for traffic calming added to the Transportation Plan was not included in the CFP. Staff has added that amount to the CFP.
2. TBD revenue and projects shown in the CFP did not match the TBD list approved by the TBD Board. With the failure of the TBD ballot measure, reference to TBD revenue has been changed to unsecured revenue. It is important to retain the projects in the CFP and to match the TIP because projects eligible for grant funding must be in the 6-year TIP.
3. Prioritization of the CFP General Project List. As a result of a meeting Councilmember Wilson held with staff, then-Parks & Recreation Director Brian McIntosh prepared a memo with additional explanation regarding the status of projects.

He noted the Council approved the Surface Water portion of the plan at the October 5, 2010 Council meeting.

COUNCILMEMBER PETERSON MOVED, SECONDED BY COUNCIL PRESIDENT BERNHEIM, TO APPROVE THE CAPITAL FACILITIES PLAN AND THE CAPITAL IMPROVEMENT PROGRAM (2011-2016).

COUNCILMEMBER PETSO MOVED, SECONDED BY COUNCILMEMBER BUCKSHNIS, TO AMEND THE MOTION TO ADD TO THE 2011 CAPITAL IMPROVEMENT PROGRAM A PUBLIC MARKET FACILITY IN THE DOWNTOWN WATERFRONT AREA WITH NO DATA OR COSTS SPECIFIED AND TO ADD IT TO THE 2011 DOCKET. AMENDMENT CARRIED UNANIMOUSLY.

THE VOTE ON THE MAIN MOTION AS AMENDED CARRIED (5-2), COUNCILMEMBERS PLUNKETT AND WILSON VOTING NO.

Councilmember Wilson thanked staff, particularly Mr. McIntosh for describing the rationale for several projects in the CIP. He noted some of items on the CIP General list were included because someone suggested it at a public meeting and there has been no feasibility work or significant staff support for many of those projects such as the Edmonds Sno-Isle Library changes. He suggested when the CFP/CIP is adopted as part of the Comprehensive Plan amendments at the end of the year, consideration be given to removing some of those projects.

10. ANNUAL NON-REPRESENTED COMPENSATION UPDATE.

Human Resources Director Debi Humann explained as required by the City's Non-Represented Compensation (NRC) policy, she is presenting the results of the annual compensation survey, the updated NRC policy and the draft Salary Ordinance. Non-represented employees' salaries are impacted by three actions, 1) the annual salary survey required by the NRC policy, 2) annual merit increases that are tied to employee performance, and 3) when warranted, a cost of living adjustment (COLA) approved by Council.

The annual salary survey was performed per the NRC policy and the results of both surveyed positions were included in the Council packet. The position of Police Chief and Human Resources Assistant were compared against like positions in comparable cities. This year's survey found the position of Police Chief was below the median position and as a result of the survey and per City policy, Band A requires a slight adjustment upward to maintain the L-5 position to the marketplace which also results in a slight upward movement to Bands B-G. No movement was warranted for the Band H as the survey shows the HR Assistant position was at the L5 or median of the marketplace.

Ms. Humann noted this slight movement of the bands does not mean that the non-represented employees receive a wage increase. Per the NRC policy, merit increases are awarded on the employee's anniversary date and are based on job performance. Due to the difficult economy, non-represented employees, comprised of management, professional and technical teams, have over the past few years had their wages frozen, given back salary savings via furloughs and have voluntarily accepted smaller annual merit increases than allowed for under the policy. Unlike union employees, none of the non-represented employees are paid at the maximum of their band.

With the negative June-June CPI, no COLA is recommended or requested for 2011 for non-represented employees. The Council packet includes an updated version of the NRC policy. The updated policy and wage information were presented at the October Finance Committee where it was agreed the materials should move forward to full Council without recommendation. The Finance Committee requested the changes to Article 1.3 of the draft ordinance, clarifying that this section was to be used on a temporary basis only. A Councilmember also requested both the current non-represented band amounts as well as the proposed band amounts be provided for comparison purposes. This information is contained in the draft ordinance as well as in Exhibit A, titled "2011 Non-Represented Employee Pay Schedule."

Staff requests Council approval of the 2011 Wage Bands reflecting the results of the salary survey per City policy, approval of the updated NRC policy and approval of the draft salary ordinance.

COUNCIL PRESIDENT BERNHEIM MOVED, SECONDED BY COUNCILMEMBER WILSON, TO EXTEND THE MEETING FOR ONE HOUR. MOTION CARRIED UNANIMOUSLY.

Council President Bernheim asked whether the material presented applied to the hourly adjustments discussed at the Finance Committee meeting last week with regard to the change in minimum wage. Ms. Humann answered it did not. Her understanding was the Finance Committee reviewed the minimum wage table and approval would be scheduled on a future Consent Agenda.

COUNCIL PRESIDENT BERNHEIM MOVED, SECONDED BY COUNCILMEMBER PETERSON, TO APPROVE THE NON-REPRESENTED COMPENSATION POLICY.

Councilmember Petso did not support the motion. She appreciated the changes made in paragraph 1.3 and thanked Ms. Humann and Police Chief Compaan for meeting with her to explain the policy. She was not convinced there was anything coherent about the policy and offered to make a budget amendment to have a proper salary survey conducted and different policy established. She did not support the NRC policy for the following reasons:

1. Comparable cities are limited to King, Pierce and Snohomish Counties which excludes cities that may have positions that are comparable to the work Edmonds employees perform such as Bremerton, Olympia or Lacey.
2. Only two positions out of approximately 24 positions are surveyed for comparables. At that rate, those positions would not be surveyed again for 12 years or if those same two positions are surveyed each year, the salaries of the other 22 employees are not surveyed.
3. The ordinance identifies a series of bands and employees are paid within the bands. She was not satisfied with that approach. For example Band A includes the Police Chief who supervises 50-60 employees, the Human Resources Director who supervises two employees and the Parks & Recreation Director who supervises numerous employees. She summarized the positions in Band A perform very different functions and she was uncertain why they would be in the same band.
4. There are no actual numbers in any of the documents; therefore, she was unaware how much each position in Band A is paid. The ordinance specifies a range of between \$100,000 and \$155,000. The budget does not specify the amount. Councilmembers are not permitted to review actual payroll; she can only see the total amount of payroll when it is approved.

Councilmember Plunkett observed review of the NRC policy is scheduled on an upcoming agenda. City Clerk Sandy Chase advised it was scheduled on the December 21 meeting agenda. If the Council planned to review the NRC policy in December, he asked why the Council needed to adopt an updated policy tonight. Ms. Humann answered the only change made to the policy was to update titles to reflect current staff. The actual process and policy was not changed. City Attorney Scott Snyder explained in order to implement the ordinance, the Council needed banding to describe who was in each band, page 3 describes the annual merit increase that the Mayor provides pursuant to paragraph 1.2 of the ordinance, and recruitment which places employees within a band. He suggested those portions were necessary to allow staff to administer the ordinance.

Councilmember Plunkett summarized approving the policy implements the ordinance. Although he was not satisfied with the policy, the actions requested by Ms. Humann were in accordance with the policy. Because the Council planned to begin reviewing the policy next, he was willing to adopt the update to the existing policy.

Councilmember Fraley-Monillas referred to the current bands and proposed bands, noting the amount within the proposed bands is higher for Bands A-G. She asked if it was within the Mayor's prerogative to determine whether an employee merits a raise within the new, higher band. Ms. Humann explained according to the NRC policy, the band minimums and maximums are established annually by the Council. Merit increases between 0 and 3% are based on performance as determined by an employee's annual performance review. None of the non-represented employees are at the top of their band.

Councilmember Fraley-Monillas summarized an employee with good performance could receive a 3-5% increase in 2011. Ms. Humann answered the merit increases are 0-3%. There is language in the NRC policy that allows for a 5% increase for meritorious service. In the history of the policy, only one employee has received 5%. During the last two years, non-represented employees at the director and division manager level have received half merit increases.

Councilmember Fraley-Monillas asked how represented employees' increases were calculated. Ms. Humann answered collective bargaining agreements establish wages; their steps are 5% until they reach the maximum of their pay grade. Represented employees receive a 5% annual increase based on longevity, not performance.

Councilmember Fraley-Monillas referred to the section regarding additional compensation for an employee doing the duties of another position. Ms. Humann answered City policies address working out of class, doing the work of a position of a higher level such as filling in during vacation for the supervisor. There was no policy for an employee doing the job of a lower level employee. The NRC policy gave the Mayor the opportunity to award someone doing additional work at a lower level. That has never been used; non-represented employees have simply absorbed additional workloads.

Councilmember Fraley-Monillas commented the policy could change in five weeks. Ms. Humann answered the Council would begin reviewing the NRC policy in five weeks. Mr. Snyder advised approval of the annual salary ordinance is required to supplement approval of the budget.

Councilmember Wilson observed the City's policy is L-5 or the median of comparable cities. In implementation for bargaining units, the L-5 level is actually the top of the band. Ms. Humann agreed, explaining an employee paid to the maximum of their wage band, they are paid to the median of the benchmarked cities. He observed the top of the band for the Police Chief was \$155,000 which is the L-5 level. He anticipated the City did not have the staff to compare job descriptions or workloads. Ms. Humann agreed, noting there was more to the directors' functions than the number of employees they supervise.

Councilmember Wilson agreed, noting basing L5 on title was not an accurate representation to set policy. Ms. Humann explained there are many different compensation policies in other cities; there was no one correct way. Councilmember Wilson recalled former Councilmember Wambolt's support for a market survey. Mr. Snyder commented one of the reasons the Council adopted the NRC policy was to avoid paying a consultant biannually to conduct a survey. Ms. Humann pointed out the last time the City hired a consultant was in 1997. One of the reasons the current policy only surveys two positions is the limited staffing levels in Human Resources.

Councilmember Wilson commented the median compensation level for the Police Chief with a department of 55 uniformed officers is \$155,000 and the Human Resources Director with a department of 2 is also at \$155,000 and there are differences in their job responsibilities. He recalled Ms. Humann's previous title was Human Resources Manager, noting whether an employee was a director or manager was based on his/her job description. Ms. Humann explained prior to the NRC policy, every non-represented position was benchmarked to other cities. She assured the Human Resources Director does not earn what the Police Chief does; her salary is the lowest of all director positions. When all the

positions were originally benchmarked, they were transferred into a band. Although each employee has received merit increases over the years, their salaries have not increased much beyond the original bands. There is a 50% band width in each band. The majority of positions are between the minimum and median of each band; few positions are above the median with the exception of the Police Chief which is benchmarked to the outside.

Councilmember Wilson commented if the Human Resources Director was moved to Band C, it would have no practical impact. Ms. Humann acknowledged it was very difficult to compare jobs. Former Mayor Haakenson and she discussed essential functions, degree of responsibility, degree of liability to the City, etc. when placing positions in the bands. She acknowledged placing job titles into bands was a subjective decision.

Councilmember Wilson recognized the NRC policy had been in place for a while. He was concerned the current policy stated a 5% merit increase could be awarded for meritorious service, that another 5% could be provided for an employee doing additional job duties, and that an additional week's compensation was provided for employees doing training.

Mayor Cooper clarified employees can receive up to a 3% merit increase; under special circumstances for meritorious service, an employee can receive 5%. Since this policy was adopted, only one non-represented employee has received a 5% increase. For an employee to receive a 5% increase, his/her boss must convince the Mayor that his/her performance warrants a 5% increase. The 5% acting pay only applied during the period of time an employee was doing someone else's job up to a maximum of 6 months or until the position is filled. For example there is currently no Parks, Recreation and Cultural Arts Director; he did not appoint an acting director and none of the three managers are receiving additional compensation. During the period of time the Development Services Director position was vacant, neither the Building Official nor the Planning Manager received additional compensation to perform those duties. Although Mr. Clifton assumed many of the Development Services Director's responsibilities, neither former Mayor Haakenson nor he authorized additional compensation. Not because they did not deserve it but due to concern with the City's budget. Councilmember Wilson suggested revising the policy to reflect current practice.

Councilmember Plunkett suggested it would not be effective to tweak the existing policy when the Council would be reviewing the policy soon. The proposed policy implements the ordinance and keeps it in place until the Council completes its review of the policy.

Councilmember Fraley-Monillas asked why the policy was being updated and whether the old policy would remain in place if the Council did not adopt the updated policy. Ms. Humann answered the only change to the NRC policy was new non-represented employee titles. For example the previous Finance Director's title was Administrative Services Director and some titles for employees on the 2nd floor were added. The process in the policy was not altered. Councilmember Fraley-Monillas asked if the Council not adopting the NRC policy update affected any non-represented employees' salaries, benefits, etc. Mr. Snyder commented the policy authorizes how any new position was placed in the band. Unless the NRC policy is approved, the salaries for those new positions would not be authorized. Councilmember Fraley-Monillas summarized it would harm non-represented employees by their not receiving the banded salary. Mr. Snyder clarified the City would receive an audit note that an employee was being paid without their being included in the salary ordinance. Ms. Humann answered unless the updated NRC policy was adopted, the City would not be in compliance with the policy.

MOTION CARRIED (5-2), COUNCILMEMBERS PETSO AND WILSON VOTING NO.

COUNCIL PRESIDENT BERNHEIM MOVED, SECONDED BY COUNCILMEMBER PETERSON, TO ADOPT ORDINANCE NO. 3821, ESTABLISHING THE SALARY RANGES FOR NON-REPRESENTED EXEMPT PERSONNEL FOR THE BUDGET YEAR 2011.

Councilmember Buckshnis commented when Band A increases, the other bands also receive an increase. She commented it would have been beneficial to survey both Bands A and B. Ms. Humann clarified none of the employees receive an automatic increase due to the band adjustments, the bands are simply adjusted. Councilmember Buckshnis assumed if Band A and B had been surveyed and Band A increased and Band B did not, it may not have been appropriate to increase Bands B-G.

Council President Bernheim did not like the system and did not completely understand it. However, at this point in the year, as a practical matter, the Council needs to approve the policy in place. Changes to the policy could be considered next year.

Councilmember Plunkett observed the ranges were within the Mayor's preliminary budget. Mayor Cooper agreed, noting although the bands changed, none of the employees were guaranteed an increase and under the policy none of the employees were eligible for a raise larger than a 3% merit increase based on their evaluation. He has informed the directors to expect a maximum 1.5% merit increase.

Councilmember Fraley-Monillas expressed concern with increasing the bands now and potentially reversing that decision and lowering the bands next year. Mr. Snyder responded all the non-represented employees were at-will employees and their salaries could be reduced or their jobs eliminated at any time for any reason. Mayor Cooper clarified the Council could pass a new salary ordinance at any time and change the band. Mr. Snyder agreed. Mayor Cooper pointed out prior to appointing the new Mayor, the Council passed a new salary ordinance setting the Mayor's salary for the remainder of the term. He anticipated drastic changes would need to be made to result in a cut to an employee's salary because none of them are at the top of the band. Mr. Snyder commented another tool is red-lining/maintaining a salary at a level until the band catches up.

Councilmember Fraley-Monillas acknowledged the Mayor's salary was revised but the position was vacant at the time. She expressed concern with potentially reducing an employee's salary. Mayor Cooper clarified his point was the Council had the ability to approve a salary ordinance at any time that reduced or increased the bands. The salary ordinance needs to be passed to enact the budget.

Councilmember Wilson clarified his intent was not to reduce salaries; he was interested in eliminating the language in the ordinance that provides an additional week of compensation for an employee participating in training another employee.

MOTION CARRIED (5-2), COUNCILMEMBERS PETSO AND WILSON VOTING NO.

(Councilmember Fraley-Monillas left the meeting at 10:40 p.m.)

11. OPEN DISCUSSION OF POSSIBLE BUDGET AMENDMENTS

Council President Bernheim reviewed the budget process

- October 19 – public hearing on the budget
- October 26 – Councilmembers asked questions of staff
- November 9 Finance Committee – Councilmember had the opportunity to submit questions
- November 16 – Councilmembers state possible amendments to the budget
- November 23 – deadline for Councilmember to submit written budget amendments
- December 7 – vote on amendments and the 2011 budget

Council President Bernheim reviewed budget amendments that have been suggested:

- Funding stormwater staff from the Utility Funds
- Restoring funds to the Parks Trust Fund

- Funding a Strategic Plan
- Funding Edmonds Center for the Arts
- Establish a Reserve amount
- Reinstating the Police Department Crime Prevention Division
- Spend less for the City Attorney
- Funds for the Old Mill Town park
- Reduce obligations to the Woodway police contract
- Reduce incarceration costs
- Reduce the budget for leaf blowers

Councilmember Buckshnis asked when the Council would receive actual numbers, exhibits and summations of departments that have been requested. Mayor Cooper responded staff is continuing to answer questions the Council and citizens raised. His understanding was the attachments contained the requested information and he asked what additional information she needed. Councilmember Buckshnis advised Exhibit 4 was the only chart the Council has received.

Councilmember Petso planned to propose the following amendment:

- Not use one-time money from the Public Safety Reserve for fire hydrant maintenance. The Council adopted a particularly high water utility tax for the purpose of fire hydrant maintenance. She planned to allocate funds from the water utility tax for fire hydrant maintenance.

Councilmember Peterson planned to propose the following amendments:

- Fund the \$100,000 Strategic Plan proposed by the Economic Development Commission. He was considering funding it with cuts from other areas of the budget.
- Fund in some small way the Edmonds Center for the Arts/Public Facilities District via reallocating funds in the budget

Councilmember Buckshnis advised she has prepared the following amendments:

- Establishing a reserve of one month's expenditures
- Funding the Strategic Plan
- Restoring funds to the Parks Trust Fund
- Authorize Stormwater and GIS positions
- Transfer \$280,000 - \$300,000 from the General Fund to the Street Fund 111

Council President Bernheim listed the amendments he planned to propose:

- Budget less for the City Attorney, acknowledging budgeting less did not necessarily result in spending less
- Include \$40,000 to remodel the Old Mill Town Park
- Charge Woodway more for police services
- Explore with the Police Department ways to reduce the \$50,000/month jail care budget
- Explore alternatives to park maintenance that do not require purchasing new leaf blowers

Councilmember Wilson asked for a more detailed breakdown of the revenue forecast. Further detail would allow him to determine the amount budgeted for EMS transport fees in 2011. He asked whether the Lodging Tax Advisory Committee (LTAC) had provided a formal recommendation. He noted the ordinance requires the LTAC to provide a formal recommendation to the Council for its budgeted expenditures. Community Services/Economic Development Director Stephen Clifton answered as part of the budget process, the Council reviews the LTAC budget. He relayed Cultural Services Manager Frances Chapin's indication that that process had been followed in the past. Councilmember Wilson responded the process he described was contained in the ordinance.

Council President Bernheim clarified the intent of this agenda item was for Councilmembers to identify the amendments they planned to propose. Councilmember Wilson clarified he planned to propose an amendment regarding funding the ECA using LTAC funds but was uncertain whether the LTAC had met and made a recommendation. Next, he requested the questions he submitted in response to Question 1 in Week October 11 be provided.

Councilmember Wilson planned to propose the following amendments:

- Reinstatement the Crime Prevention Unit
- Reinstatement the School Resource Officer
- Implement the \$50,000 for traffic calming in the CIP – Public Works Director Phil Williams offered to prepare a budget amendment
- Review the advertising plan for economic development to ensure it is as robust as possible
- Hire police officers to bring the level to the average

Councilmember Wilson recognized a significant number of additional expenditures would be proposed but few cuts.

COUNCILMEMBER WILSON MOVED THAT THE CITY COUNCIL RESOLVE TO HAVE EVERY BUDGET AMENDMENT REGARDING AN EXPENDITURE BE OFFSET BY A CUT/REALLOCATION SO THAT ALL AMENDMENTS ARE BUDGET NEUTRAL. MOTION DIED FOR LACK OF A SECOND.

COUNCILMEMBER WILSON MOVED, SECONDED BY COUNCILMEMBER PETERSON, TO EXTEND THE MEETING FOR 30 MINUTES. MOTION CARRIED UNANIMOUSLY.

Councilmember Plunkett commented he supported Councilmember Wilson's motion in concept but was not willing to be restricted at this time. Councilmember Plunkett distributed three amendments:

- Restore \$36,500 to the Park Trust Fund
- The Historic Preservation Commission has requested \$7,500 to reprint the historic brochure and walking tour
- Chamber of Commerce has requested \$5,000 for the parade

Councilmember Buckshnis indicated she planned to submit a \$5,000 request for the Chamber from the Council Contingency Fund. She asked whether Councilmember Plunkett was suggesting \$5,000 to fund next year's parade. Councilmember Plunkett advised he was willing to consider options.

The Council accepted Mayor Cooper's offer to have staff prepare amendments regarding the other decision packages proposed by staff such as additional portable toilets (\$5,000), lawnmower and leaf blower, and Police body armor. He advised the \$42,000 request for a consultant for the healthcare plan broker was not needed.

Mr. Hines advised the supplemental information distributed on October 22 included the revised decision package document that identifies the fund. He offered to resend the list tomorrow.

Mayor Cooper advised staff was preparing an interactive spreadsheet that will be displayed as Councilmembers introduce amendments to illustrate how the amendment will change expenditures and revenues on Exhibit 4 as well as the future year's projections.

12. REPORT ON CITY COUNCIL COMMITTEE MEETINGS OF NOVEMBER 9, 2010

Community Services/Development Services Committee

Councilmember Peterson reported most of the items the Committee considered were on the Consent Agenda or Council agenda. The Committee reviewed the legislative agenda and expressed support for extending the PFD sales and use tax credit from 2027 to 2037. The Committee continued its review of the

compostable food packaging ordinance; further update/discussion will be scheduled next year. Staff also provided the Committee a Quarterly Public Works Project Report.

Finance Committee

Councilmember Buckshnis reported most of the items were approved on the Consent Agenda. The Committee spent a considerable amount of time discussing the Monthly General Fund Update and the Third Quarter Budget Update. A reformat of the finance reports showing actual to budget is still being requested. A number of questions were asked with regard to the Third Quarter Budget. The Committee discussed the Hourly Employee Wage Schedule and the fact that increasing the minimum wage results in all wages increasing. Next, the Committee discussed the General Fund Reserve Policy; she prepared a resolution to establish a one-month policy which has been the City's norm for the past ten years. The Committee also recommended approval of the Senior Executive Council Assistant's contract. Mr. Hertrich and Mr. Wambolt provided public comment.

Public Safety Committee

Councilmember Wilson reported the Committee reviewed the legislative agenda as it related to public safety. In its discussion regarding regionalization of fire services, the Committee expressed interest in more information regarding what is more appropriate for Edmonds citizens – staying with Fire District 1, moving to a regional fire authority, reverse annexation or something else. A special Public Safety Committee meeting will be held next week and the Committee will hold its regular meeting December 14.

13. MAYOR'S COMMENTS

Mayor Cooper reported over the last few weeks, the City has received over \$2.1 million in grants from Puget Sound Regional Council and other entities for projects such as:

- Design and engineering work at Five Corners
- Additional grant for planned work on Main Street between 5th & 6th Avenue
- Intersection improvements at 228th & Highway 99
- Enhancements, illumination and expansion of the project in the International District on Hwy 99
- Improvements and interpretive signs downtown via a Preserve America Grant for

Mayor Cooper emphasized these grants were a direct result of staff's efforts to seek out grants. The grants provide seed money to get some important projects underway. He expressed his thanks to staff for securing the grants.

14. COUNCIL COMMENTS

Council President Bernheim encouraged the public to volunteer or donate money or food to a food bank during the holiday season.

15. ADJOURN

With no further business, the Council meeting was adjourned at 11:15 p.m.